

HOUSE BILL NO. 361

INTRODUCED BY D. KOTTEL

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING REQUIREMENTS FOR A PROXY MARRIAGE;
5 REQUIRING ONE PARTY TO A PROXY MARRIAGE TO BE A ~~CITIZEN~~ MEMBER OF THE ARMED FORCES
6 OF THE UNITED STATES ON FEDERAL ACTIVE DUTY OR A RESIDENT OF THE UNITED STATES MONTANA;
7 AMENDING SECTIONS 40-1-202 AND 40-1-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 40-1-202, MCA, is amended to read:

12 **"40-1-202. License issuance.** ~~When~~ Except as provided in 40-1-301, when a marriage application has
13 been completed and signed by both parties to a prospective marriage and at least one party has appeared before
14 the clerk of the district court and paid the marriage license fee of \$53, the clerk of the district court shall issue a
15 license to marry and a marriage certificate form upon being furnished:

16 (1) satisfactory proof that each party to the marriage will have attained ~~the age of 18 years~~ of age at the
17 time the marriage license is effective or will have attained ~~the age of 16 years~~ of age and has obtained judicial
18 approval as provided in 40-1-213;

19 (2) satisfactory proof that the marriage is not prohibited; and

20 (3) a certificate of the results of any medical examination required by the laws of this state."
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22 **Section 2.** Section 40-1-301, MCA, is amended to read:

23 **"40-1-301. Solemnization and registration.** (1) A marriage may be solemnized by a judge of a court
24 of record, by a public official whose powers include solemnization of marriages, by a mayor, city judge, or justice
25 of the peace, by a tribal judge, or in accordance with any mode of solemnization recognized by any religious
26 denomination, Indian nation or tribe, or native group. Either the person solemnizing the marriage or, if no
27 individual acting alone solemnized the marriage, a party to the marriage shall complete the marriage certificate
28 form and forward it to the clerk of the district court.

29 (2) If a party to a marriage is unable to be present at the solemnization, ~~he~~ the party may authorize in
30 writing a third person to act as ~~his~~ proxy. If the person solemnizing the marriage is satisfied that the absent party



1 is unable to be present and has consented to the marriage, ~~he~~ the person may solemnize the marriage by proxy.
 2 If ~~he~~ the person solemnizing the marriage is not satisfied, the parties may petition the district court for an order
 3 permitting the marriage to be solemnized by proxy.

4 (3) The solemnization of the marriage is not invalidated by the fact that the person solemnizing the
 5 marriage was not legally qualified to solemnize it; if either party to the marriage believed ~~him~~ that person to be
 6 ~~so~~ qualified.

7 (4) ~~One party to a proxy marriage must be a citizen of the United States, and proof of citizenship must~~
 8 ~~be submitted to the clerk of court upon~~ MEMBER OF THE ARMED FORCES OF THE UNITED STATES ON FEDERAL ACTIVE
 9 DUTY OR A RESIDENT OF THE UNITED STATES MONTANA AT THE TIME OF application for a license and certificate
 10 pursuant to 40-1-202. One party or a legal representative shall appear before the clerk of court and pay the
 11 marriage license fee. FOR THE PURPOSES OF THIS SUBSECTION, RESIDENCY MUST BE DETERMINED IN ACCORDANCE
 12 WITH 1-1-215."

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14 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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